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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/816,829	03/23/01	BOUVE	W 387970

TM02/0823

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EXAMINER	
ALAM, H	
ART UNIT	PAPER NUMBER
2172	3

DATE MAILED: 08/23/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No. 09/816,829	Applicant(s) BOUVE ET AL.	
	Examiner Hosain T Alam	Art Unit 2172	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____ .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-33 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-33 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Claims 1-33 are pending in this action.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over European Patent Application, EP 0508787A2, published on October 14, 1992, "Nobe".

As to claim 1, Nobe teaches a system for determining the position of an item of interest (i.e., "service facilities") as claimed comprising a database for items of interest, each item having a corresponding geographic position and a category, and a plurality of ports for accessing the database through the Internet, each port with a user interface for

inputting the position of the item (col. 2, lines 25-42). Nobe teaches everything as claimed except that does not explicitly indicate the transmission of data through the Internet. Nobe, however, teaches the use of a global positioning system or GPS (col. 3, lines 3-5) and external data storage (col. 3, lines 47-50) to store data. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to adopt an Internet-based transmission scheme in Nobe to improve the quantity and quality of data by having access to a wide range of remote data sources available through the Internet. The use of TCP/IP protocol is believed to be general knowledge available to a person of ordinary skill since the Internet has been in use, although in limited scope, since 1969 with the introduction of the ARPANET of U. S. Department of Defense. Further, it would have been obvious to a person of ordinary skill to install the Internet-based transmission scheme because Nobe does not limit the use of an external medium (col. 3, lines 47-50).

As to claim 2 (items are business category), see col. 2, lines 26-27.

As to claim 3 (port comprises a computer display), Nobe teaches the sue of GPS. Col. 3, lines 3-5.

As to claims 5-6 (additional details for the item of interest), see col. 5, lines 19-20.

Claim 4 (port comprises a printer), and claim 8 (port with graphic display) are rejected for the same reasons as applied to claim 1 above.

As to claim 11 (repeated updates), it would have been obvious to a person of

ordinary skill to update data repeatedly because consumers always prefer up-to-date data.

As to claim 12 (automatic update), it would have been obvious to a person of ordinary skill to automatically update the data to reduce or eliminate human intervention and reduce labor cost.

As to claim 13 (a GPS receiver), see col. 3, line 3-5.

Claim 7 is directed to attaching an advertisement to an item of interest, which is not explicitly disclosed by Nobe. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to attach an advertisement to earn revenues from the owner of the advertised product or services. It is general knowledge that an advertisement posted adjacent to an item of interest draws the attention of system users.

As to claim 9 (voice input), and claim 10 (speaker), examiner takes Official Notice in accordance with MPEP 2144.03.

2144.03 Reliance on Common Knowledge in the Art or "Well Known" Prior Art
The rationale supporting an obviousness rejection may be based on common knowledge in the art or "well-known" prior art. The examiner may take official notice of facts outside of the record which are capable of instant and unquestionable demonstration as being "well- known" in the art. In re Ahlert, 424 F.2d 1088, 1091, 165 USPQ 418, 420 (CCPA 1970) (Board properly took judicial notice that "it is common practice to postheat a weld after the welding operation is completed" and that "it is old to adjust the intensity of a flame in accordance with the heat requirements."). See also In re Seifreid, 407 F.2d 897, 160 USPQ 804 (CCPA 1969) (Examiner's statement that polyethylene terephthalate films are commonly known to be shrinkable is a statement of common knowledge in the art, supported by the references of record.).
If justified, the examiner should not be obliged to spend time to produce documentary proof. If the knowledge is of such notorious character that official notice can be taken, it is sufficient so to state. In re Malcolm, 129 F.2d 529, 54 USPQ 235 (CCPA 1942). If

the applicant traverses such an assertion the examiner should cite a reference in support of his or her position. If applicant does not seasonably traverse the well known statement during examination, then the object of the well known statement is taken to be admitted prior art. In re Chevenard, 139 F.2d 71, 60 USPQ 239 (CCPA 1943). A seasonable challenge constitutes a demand for evidence made as soon as practicable during prosecution. Thus, applicant is charged with rebutting the well known statement in the next reply after the Office action in which the well known statement was made. This is necessary because the examiner must be given the opportunity to provide evidence in the next Office action or explain why no evidence is required. If the examiner adds a reference to the rejection in the next action after applicant's rebuttal, the newly cited reference, if it is added merely as evidence of the prior well known statement, does not result in a new issue and thus the action can potentially be made final. If no amendments are made to the claims, the examiner must not rely on any other teachings in the reference if the rejection is madefinal.

Claim 14 is the essentially same as claim 1 and rejected for the same reasons as applied above.

As to claim 15 (phone, cellular link), claim 16 (mobile or Internet link), and claim 17 (speed over 9600 baud), the examiner takes Official Notice in accordance with MPEP 2144.03.

Claim 18 is a method for generating the position of a item of interest to a user over the Internet as claimed comprising storing position information for the item in a database, and providing the position information to multiple ports. Claim 18 is rejected for the same reasons as applied to claim 1 and/or 14 hereinabove.

As to claim 19 (display), Nobe teaches a display.

As to claim 20 (relative position in GPS), see col. 2, lines 25-43.

As to claim 21 (GPS), see col. 3, lines 1-6.

As to claim 22 (cellular link), and claim 23 (telephone link), the examiner takes Official Notice in accordance with 2144.03.

Claim 24, which is directed to a method for determining the position of an item of interest as claimed comprising a database and ports) is rejected for the same reasons as applied to claim 1, 14 and/or 18 above.

As to claim 25 (cellular), the examiner takes Official Notice (MPEP 2144.03).

As to claim 26 (hierarchical display of items), see col. 5, line 15-20.

As to claim 27 (cellular link to a laptop), the examiner takes Official Notice (MPEP 2144.03).

As to claims 28-29 (supplying items within a particular radius), Nobe teaches the range of longitude and latitude (col. 6, lines 35-60).

As to claim 30 (inputting a distinct address), see col. 2, lines 10-12.

Claim 31 (supplying advertising information about a business to a user), claim 32 (supplying updated advertising information), and claim 33 (supplying images or video clips) are rejected under the same rationale given to claim 7 hereinabove.
It would have been obvious to a person of ordinary skill in the art at the time the invention was made to enhance an advertisement attached to an item of interest to earn revenues from the owner of the advertised product or services. It is general knowledge that an advertisement posted adjacent to an item of interest draws the attention of system users. It is also with the general knowledge available to a person of ordinary skill that an enhanced advertisement promotes sale of a product or service. See MPEP 2144.03.

Prior Art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U. S. Patent No. 5,289,572 issued to Yano et al.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hosain T Alam whose telephone number is (703) 308-6662. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Y Vu can be reached on (703) 305-4393. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-6606 for regular communications and (703) 308-6606 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305 3800.

Hosain T. Alam
Primary Examiner
Art Unit 2172

August 21, 2001